

WARREN ZONING BOARD OF APPEALS
REGULAR MEETING
August 24, 2016

A Regular Meeting of the Warren Zoning Board of Appeals was called on Wednesday, August 24, 2016 at 7:30 p.m. in the Warren Community Center Auditorium, 5460 Arden Avenue, Warren, Michigan 48092.

Members of the Board present:

Roman Nestorowicz, Chairman
Sherry Brasza, Secretary
Judy Furgal, Vice-Chairwoman
Jeremy Fisher, Asst. Secretary
Ann Pauta
Henry Brasza
Charles Anglin
Albert Sophia

Members of the Board absent:

Jeremy Wallace

Also present:

Roxanne Canestrelli, City Attorney
Steven Watripont, Zoning Inspector

1. CALL TO ORDER

Chairman Nestorowicz called the meeting to Order at 7:31 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Board Member Fisher walked in during the motion.

Motion:

Secretary S. Brasza made the motion to excuse Board Member Wallace; Supported by Board Member Anglin.

Voice Vote:

A voice vote was taken on the motion. The motion carried (7 – 0).

4. ADOPTION OF THE AGENDA

Secretary S. Brasza mentioned a couple changes. Rescheduling item number has been requested to 9/28/16; item number eleven requested to be rescheduled to 9/14/16; item number thirteen asked for a withdraw.

Motion:

Secretary S. Brasza made the motion to adopt the agenda with changes; Supported by Board Member Sophiea.

Voice Vote:

A voice vote was taken on the motion. The motion carried (8 – 0).

Chairman Nestorowicz stated if anyone was here for item number 6, which was Najib Atisha at 11177 Eight Mile that will be heard on September 28th; not going to be heard today. If anyone is here for item number eleven which the applicant was Dart Machinery at 2097 Bart that is now being moved to September 14th. Please note those date changes since those will not be re-posted or re-noticed. Number thirteen, Crown Enterprises, at 2400 Frazho was totally withdrawn; that is not being rescheduled.

5. APPROVAL OF THE MINUTES OF the Regular Meeting of August 10, 2016.

Board Member Pauta said she had one thing. She stated it was item number... (Pause). She apologized for the delay, she was looking for the item number. (Pause) She said it was item number ten, public hearing: 3827, 4001 and 4007 Eleven Mile Road. Towards the end of discussion Mr. Shango had asked if he could cut down the tree between the sidewalk and the curb.

Chairman Nestorowicz asked Board Member Pauta to speak closer to her microphone so everybody could hear her.

Board Member Pauta stated Mr. Shango had asked if he could cut down the tree between the sidewalk and the curb, the Chair person responded he would have to speak to someone at the city. The note says Mr. Shango stated he could give it to Mr. Murphy but actually what he did say is he will talk to his buddy and pointed to Mr. Murphy. That is the only change she would like to make and thanked the Board.

Secretary S. Brasza asked Board Member Pauta if that was page twenty or twenty one, she can see it in the upper left hand corner.

(Pause)

Secretary S. Brasza asked where about, because that was a conversation she was having with him.

(Pause)

Board Member Pauta stated it was right after where Secretary S. Brasza stated he is in some past, but he is just not on this application. This was when she was asking him for identification, who he was. It's right after that.

4. Allow parking spaces to be 20' in length on the east property line.
5. Waive the required hard surface and drainage and allow asphalt millings.
6. Allow an outdoor scrap metal processing.
7. Allow open storage of other waste products in an M-3 zone.
8. Allow a 12 foot green belt along the west property line.

ORDINANCES and REQUIREMENTS:

Section 2.26 Paragraph (b): Greenbelt, 20' wide, a decorative masonry wall, not more than six (6) feet in height and not less than eight (8) inches in thickness may be substituted for the greenbelts, upon approval of the Planning Director, and shall be maintained in an attractive condition and structurally sound.

Section 4.32 Paragraph (h) Item 23: One (1) square foot of parking area required for each sq. ft. of floor area for buildings in M-3 Districts.

Section 4.32 Paragraph (i): All spaces that abut a continuous curb required in accordance with Section 16.07 of this Ordinance or a common property line shall be laid out with 22' length.

Section 4.32 Paragraph (k): All off-street parking areas shall be provided with adequate ingress and egress, shall be hard surfaced, shall be maintained in a usable dustproof condition, shall be graded and drained to dispose of all surface water, provide protective bumper curbs as per Sections 4.32 (i) and 16.07, and shall otherwise comply with Section 2.46 and 16.05 of this Ordinance.

Section 17.02 Item (a): Front Yard, Front yard setback shall be 150 feet.

Section 17.02 Item (c): Greenbelt, Along all zoning district boundary lines which border on a more restrictive zoning district. Along all street property lines but may be omitted along the front yard when the front yard is landscaped. 20' wide as per Section 2.26.

Section 17.02 Item (s): Open storage other than junk, All open storage shall be located in a designated area approved by the Planning Commission as a part of site plan approval. The area shall be enclosed on three (3) sides by chain link fencing with metal/plastic slats used for screening as deemed necessary by the Planning Commission. In M-3 and M-4 zones the Planning Commission shall determine whether screening of the outside storage is necessary based on the relationship of the storage to properties zoned residential as identified in Section 3.01 (1-7) of the Zoning Ordinance.

Section 17.02 Item (v): Off-street parking for any permitted use as required and regulated by Section 4.32.

Section 17.02 Item (t): Open storage other waste products, Allowed in M-4 only – When enclosed within a tight unpierced fence not less than six (6) feet in height, when not less than one hundred fifty (150) feet from any street or right-of-way line, when not less than twenty (20) feet from any interior lot line, when surrounded with a greenbelt planting strip not less than twenty (20) feet in width and not less than eight (8) feet in height to completely screen yard from outside view, and when complying with Section 4.13.

Section 4.13: Storage, dumping of waste, junk, garbage, and other similar materials, The use of land for the storage or collection or accumulation of used lumber, and other used materials, or for the dumping or disposal of broken concrete, scrap iron, junk, garbage, rubbish or other refuse or of ashes, slag or other industrial wastes or by-products shall not be permitted in any district, except as specifically specified in Sec-

tion 17.02(t) of this Ordinance and under a Temporary Certificate from the Building Department, after approval of the Board of Appeals after the recommendation of the Planning Commission which may be issued in appropriate cases upon the filing of an application accompanied by a suitable agreement and bond that such dumping or disposal will not pollute the waters of the City or cause stagnant water to collect, or leave the surface of the land, at the expiration date of such permits, in an unstable condition or unfit for the growing of turf or for other land uses permitted in the district in which such dumping occurs.

No land within the City, regardless of zoning district, shall be used for dumping, burying or otherwise disposing of any toxic substances. For purposes of this Ordinance, toxic substance means any material in concentrations which, alone or in combination presents a significant threat to the health, safety or welfare of human life or which has the capacity to produce injury or illness through ingestion, inhalation, or absorption through the body surface.

This item was rescheduled to September 28, 2016 during the adoption of the agenda.

7. PUBLIC HEARING: **APPLICANT: Robert Meitzler**
REPRESENTATIVE: Robert Meitzler
COMMON DESCRIPTION: 28415 Malvina
LEGAL DESCRIPTION: 13-13-151-013
ZONE: R-1-C

VARIANCES REQUESTED: Permission to

Build a (10' x 12') 120 sq. ft. shed that project beyond the existing building lines of the principal building on the lot.

ORDINANCES and REQUIREMENTS:

Section 4.20 Paragraph (a): All detached accessory buildings shall conform to and shall not project beyond the existing building lines of the principal building on the lot.

Chairman Nestorowicz stated if the petitioner would state their name and address for the record, along with the reasons for the petition.

Robert Meitzler, 28415 Malvina in Warren, appeared before the Board and stated the reason for his petition is that he lives on a corner lot, he has twenty-five feet of available space off to the one side of his home. Opposite of that big twenty-five feet of space he has a big pine tree, in the middle of his yard he has a deck, a wooden walk way that protrudes to the center of his yard; so, the ideal spot is this twenty-five feet of available space. His issue is that if he complies one hundred percent fully with the ordinances of a shed, it would put the shed right in the middle of his yard. One thing that his lay out does not show is the being seven foot off of the easement. He learned this after he applied for his permit, talking to another shed builder; they brought up the easement issue. They showed him a layout and printed it out for him and showed him he needs to be seven feet off his rear fence line. It's going to be put even further into the center of his yard. Having a shed in the middle of his yard would confine himself and his wife

from doing future landscaping and gardens. Typically, neighboring homes have sheds off to one side of their yard. He doesn't want to be that neighbor that has to explain to everyone, friends and family, why their shed is in the middle of the yard; he wants to be normal. He does have five signed copies of the layout that the Board has from the neighbors that are looking directly into his backyard, they would be the ones that see the shed, they all signed, he walked around and showed them the same identical layout to see if it would be an issue; nobody had an issue. He also has, if anyone on the Board wants to see it, he did new layouts showing that seven feet of easement that is not in their current layout.

Chairman Nestorowicz thanked him. He stated this is a public hearing and asked if any members from the audience who wished to speak on this item.

No response.

Chairman Nestorowicz turned the matter over to the Board. He stated Robert Meitzler already addressed the question he already had, but he wondered how many feet from the back in the easement is the shed being placed.

Robert Meitzler replied seven feet; six feet plus one.

Chairman Nestorowicz said he did drive by the property, based on the uniqueness of the lot, its true being on a corner lot and having it be in the middle does take away the backyard.

Robert Meitzler stated exactly.

Motion:

Board Member Anglin made the motion to approve the petitioner's request to build a (10' x 12') 120 sq. ft. shed that projects beyond the existing buildings of the principal building on the lot with exception that there will be added a seven foot easement to the rear of the shed, to the property line. Due to: the uniqueness of the property and not a detriment to the area.

Board Member H. Brasza supported the motion.

Chairman Nestorowicz stated there is a motion by Board Member Anglin, support by Board Member H. Brasza.

Steve Watrion, Zoning Inspector, appeared before the Board to explain he believes it's a seven foot setback, not an easement. The easement is set a six.

Board Member Anglin adjusted his motion to be a seven foot setback.

Chairman Nestorowicz stated support by Board Member H. Brasza to approve the petitioner's request for the reasons stated in the motion. Roll call.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (8 – 0).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Sohpiea	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner’s request has been **APPROVED.**

Robert Meitzler thanked the Board.

8. PUBLIC HEARING: **APPLICANT: Matthew Bugosh**
REPRESENTATIVE: Jason McFall
COMMON DESCRIPTION: 14118 Alger
LEGAL DESCRIPTION: 13-12-129-011
ZONE: R-1-C

VARIANCES REQUESTED: Permission to

Install a carport 22’ x 11’ = 242 sq. ft. constructed on the west side of the dwelling to within 3’ of the property line and with a side yard on the east side of 5’ 1” having a combined width of both side yards of 8’ 1”.

ORDINANCES and REQUIREMENTS:

Section 2.09 Carport: A partially open shelter or structure for housing of vehicles. Such structures shall comply with all yard requirements applicable to garages.

Section 7.06 – Side yards: All lots in R-1-C Districts shall have two (2) side yards, each having a width of not less than five (5) feet and the combined width of both side yards shall be not less than thirteen (13) feet; provided, that principal buildings on adjoin lots shall be located not less than thirteen (13) feet apart, provided the overhang shall not exceed twenty-four (24) inches, not including gutter. On lots less than sixty (60) feet in width, which were of record on the date of adoption of this Ordinance, or on lots in a proposed subdivision which has received the approval of the City Council as to lot and street layout at the time of adoption of this Ordinance, a minimum side yard of three (3) feet and minimum combined width of both side yards of eleven (11) feet shall be permitted, provided that the principal buildings on adjoining lots shall be located no less than ten (10) feet apart, and provided the width of the overhang shall not exceed twelve (12) inches, not including gutter.

Chairman Nestorowicz stated if the petitioner is present to please approach and to state their name and address for the record, along with the reasons for the petition.

Steve McFall, 13525 in Livonia, appeared before the Board on behalf of the homeowner, he is the contractor performing the work. The reason for the awning is mainly to act as shelter in a carport on the side of the house. There is no garage on the property, the house does not have an attached garage attached to it. This would be one of the best options to provide coverage to the car and allow access in and out of the car without hitting the house wall or the posts for the awning. Being the nature of the structure, that's the only place on the property they could put it. It's going to be in line with the driveway, next to the house. There is also a couple similar awnings on the same street, so it's not unusual.

Chairman Nestorowicz thanked him. He stated this is a public hearing and asked if any members from the audience who wished to speak on this item.

No response.

Chairman Nestorowicz turned the matter over to the board.

Secretary S. Brasza knows Steve McFall is the representative and not sure if he would be able to answer this, but she wondered if the owners plan to build a garage on this property in the future.

Steve McFall said he doesn't believe so. The owner's father is here though.

Mark Bugosh stated no, he can't really afford it, he's been there for five years.

Secretary S. Brasza replied ok, great and thanked him.

Chairman Nestorowicz said just for all purposes, he asked the father to state his name and address for the record because he commented.

Mark Bugosh said his address is 14600 Alpina in Sterling Heights, Michigan.

Chairman Nestorowicz repeated the address so it could be heard into the record. He thanked Mark Bugosh.

Mark Bugosh stated his son is working and that's why he couldn't be here.

Chairman Nestorowicz said understood. This matter is now over to the Board.

Motion:

Board Member Fisher made the motion approve the petitioner's request to install a carport 22' x 11' = 242 sq. ft. constructed on the west side of the dwelling to within 3' of the property line and with a side yard on the east side of 5' 1" having combined width of both sides yard of 8' 1". Reasons being: property is unique and it meets all the elements necessary for a variance.

Board Member Pauta supported the motion.

Chairman Nestorowicz stated they have a motion by Board Member Fisher and support by Board Member Pauta to approve the petitioner's request for the reasons stated in the motion. Roll call.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (8 – 0).

Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Sohpiea	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED.**

Steve McFall thanked the Board.

9. PUBLIC HEARING: **APPLICANT: Spirit Halloween**
REPRESENTATIVE: Ed McHale
COMMON DESCRIPTION: 26475 Hoover Road
LEGAL DESCRIPTION: 13-22-278-040
ZONE: C-1, C-2, R-1-P & P

VARIANCES REQUESTED: Permission to

Allow a temporary banner; 7' x 30' = 210 square feet on the front elevation. From August 10, 2016 to November 15, 2016.

ORDINANCES and REQUIREMENTS:

Section 4A.41 Temporary Signs Permitted: In all districts, one (1) temporary sign may be approved for each parcel based on the permanent parcel identification number, two (2) times per calendar year for a temporary time period not to exceed thirty (30) days as follows: Paragraph (a): Signs located along major thoroughfares shall not exceed thirty-two (32) square feet in total area.

Chairman Nestorowicz stated if the petitioner would please approach and state their name and address for the record along with the reasons for the petition.

Dennis Hicks, 4423 Spruce Court in Warren, appeared before the Board and thanked them for letting them present tonight. He is the District Manager for Spirit Halloween, parent company is Spencer's Gifts. Ed McHale is the Property Manager for Ramco Investments who is the landlord there, but there is an affidavit attached to the application stating he is the representative. He also has a letter from Ramco with him tonight ap-

proving this particular sign and request for variance. They operate a seasonal Halloween store, he hopes the Board has seen Spirit Halloween's before. They operate from late August through November 2nd. As such, they fall under the guidelines as a temporary business or enterprise. This would allow them to only have sign with a maximum square footage of thirty-two square feet. They operate larger square footage stores than temporary businesses normally do. As such, they are currently in the former Office Max building at Eleven and Hoover Plaza; it's 23,000 square feet with a frontage of 3,300 square feet. When looking at the thirty-two square foot sign up there, his territory manager called it a postage stamp; so that is the reason for the request. If the Board would like to see, he has a picture or two to see what was previously approved for Office Max and Marshall's, they had signs that were probably in the ten percent of the frontage range. They don't need quite that much and to present their business well, they respectfully request the seven by thirty, that's only six point three percent of the frontage and he would really appreciate it if the Board would seek their request favorably.

Chairman Nestorowicz stated this is a public hearing and asked if there are any members of the public wishing to speak on this item.

No response.

Chairman Nestorowicz turned this matter over to the Board.

Motion:

Board Member Pauta made the motion to approve the petitioner's request to allow a temporary banner; 7' x 30' = 210 square feet on the front elevation from August 10, 2016 to November 15, 2016. Reasons being: it is not a detriment to the area, it's only a temporary sign and lack of identification.

Board Member Anglin supported the motion.

Chairman Nestorowicz stated they have a motion by Board Member Pauta, support by Board Member Anglin to approve the petitioner's request for the reasons stated in the motion. Roll call.

Roll Call:

A roll call was taken on the motion to approve and the motion carried (8 – 0).

Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Sohpiea	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED.**

Chairman Nestorowicz stated he can't believe it's almost Halloween time.

Dennis Hicks said he knows, they're just getting going. He thanked the Board.

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| 10. PUBLIC HEARING: | APPLICANT: Dan W. Lorimer |
| REPRESENTATIVE: | Charles H. Earl, Attorney |
| COMMON DESCRIPTION: | 28000 Mound |
| LEGAL DESCRIPTION: | 13-16-151-009 |
| ZONE: | M-3 |

VARIANCES REQUESTED: Permission to

Waive 9,411 square feet of required off-street parking in connection with a building addition.

ORDINANCES and REQUIREMENTS:

Section 4.32 Paragraph (h) Item 23: One square foot of parking area required for each sq. ft. of floor area for storage buildings.

Chairman Nestorowicz said to state their name and address for the record along with the reasons for the petition.

Charles Earl, 31851 Mound in Warren, appeared before the Board. He stated he is an attorney and represents the applicant. He thinks the Board is familiar with this site, it's an existing self storage facility on the east side of Mound Road, just south of Twelve Mile Road. It's in M-3 zone that is surrounded by industrial uses and it has been there for about twenty years. It's a quite use in that area and what they propose to do is do some interior renovation; he thinks the Board has site plan in front of them. He explained at the south end of that site plan he put a blue outline around the largest building and the site plan is not going to change at all. There is not going to be anything done outside the four walls of that existing building. The proposal is to add a mezzanine to that building inside. It has a twenty-two foot clear span existing now and there is one ground, they would like to add a mezzanine to that as an interior renovation. The site stays exactly as it is now and of course they have to submit architectural plans to Building and Engineering to do this. The hardship is the size and shape of the property and frankly the practical difficulty trying to mesh this particular self storage use with a parking ordinance that never really contemplated this type of use. With that, up until this minute they would be compliant with square footage of hard surface, but with this mezzanine addition they fall about 9,400 square feet short. It's not a detriment to any adjoining property owners and it will ultimately be a benefit to this owner. With that, he'll sit down and if the Board has any questions he would be happy to response.

Chairman Nestorowicz thanked him and stated this is a public hearing. He asked if any members of the public who like to speak on this item.

No response.

Chairman Nestorowicz turned this matter over to the Board. He stated that he thinks Charles Earl was clear on this, but he wondered with the existing building if there are any changes to the outside, no height is being added, they're just adding the mezzanine inside the existing building, correct?

Charles Earl replied exactly. He explained it's not an exterior site change whatsoever.

Chairman Nestorowicz asked if the amount of storage units stays the same or does it increase.

Charles Earl said they would like to add, with the Boards blessing, it's about a 9,400 square foot mezzanine in this affectively two story building that doesn't have an interior second story. That will add some additional square footage of storage area.

Chairman Nestorowicz thanked him. He wondered if there were any other questions or comments from the Board.

Board Member Fisher said no comments.

Motion:

Board Member Fisher made a motion to approve the petitioner's request to waive 9,411 square feet of required off-street parking in connection with a building addition. Reasons being: unique parcel, size and shape of the lot.

Board Member Anglin supported the motion.

Chairman Nestorowicz stated they have a motion by Board Member Fisher, support by Board Member Anglin to approve the petitioner's request for the reasons stated in the motion.

Roll Call:

A roll call was taken on the motion and the motion carried (8 – 0).

Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Sohpiea	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED.**

Charles Earl thanked the Board.

11. PUBLIC HEARING: **APPLICANT: Dart Machinery, Ltd**
REPRESENTATIVE: Michael J. O’Leary
COMMON DESCRIPTION: 2097 Bart
LEGAL DESCRIPTION: 13-30-308-008
ZONE: M-2

VARIANCES REQUESTED: Permission to

1. Waive an additional 2,734 square feet of required off-street parking in connection with a building.
2. Allow hard surfacing and a parking lot in the front yard setback to no closer than 9.9 feet from the south property line along Bart.

ORDINANCES and REQUIREMENTS:

Section 4.32 Paragraph (h) Item: One (1) square foot of parking area required for each sq. ft. of floor area for manufacturing buildings.

Section 17.02 Paragraph (a): Front yard setback for M-2 is 25 feet.

This item was rescheduled to September 14, 2016 during the adoption of the agenda.

12. PUBLIC HEARING: **APPLICANT: Sherwood Warren LLC**
REPRESENTATIVE: Robert Tobin
COMMON DESCRIPTION: 6732 Maxwell
LEGAL DESCRIPTION: 13-33-203-004 to 13-33-203-009
ZONE: M-1

VARIANCES REQUESTED: Permission to

1. Allow 3,240 sq. ft. outdoor storage on gravel surface.
2. Waive 5,945 sq. ft. of off street parking.
3. Allow a 6 foot chain link fence with plastic slats and waive the required greenbelt or wall.
4. Allow a 6 foot chain link fence in the front yard.

ORDINANCES and REQUIREMENTS:

Section 17.02, Item (s) Paragraph (2): Industrial Standards, Open storage other than junk... The designated area shall be hard surfaced and screened from the public street and any residentially zoned areas... Further, the designated area may not exceed fifty (50) percent of the gross floor area of the primary structure.

Section 17.02, Item (c): Industrial Standards, Greenbelt None, except when a side or rear yard abuts a zoning district other than industrial then eight (8) feet wide as per Section 2.26.

Section 2.26, Paragraph (a): Greenbelt An eight (8) foot greenbelt... and which shall be planted and maintained in a healthy growing condition by either the occupant or owner of the property.

Section 17.02, Item (v): Off-street parking for any permitted use as required and regulated by Section 4.32.

Section 4.32 Paragraph (h) Item 23: Industrial Establishment Provide upon land owned by such establishment about each industrial building... and in no case shall the area allotted to off-street parking be less than one hundred (100) per cent of the total floor area.

Section 4D.07: Setback required Walls, fences and landscape screens shall conform to the setback requirements for the zoning district, unless otherwise provided in this article.

Section 4D.08: Fences, walls and landscape screens in front yard between building line and front property line No fence, wall or landscape screen shall be constructed between the established building line and the front property line.

Chairman Nestorowicz said for the petitioner to approach and state their name and address for the record. He asked Robert Tobin to state his name and address for the record.

Robert Tobin, 2201 Twelve Mile in Warren, appeared before the Board and stated he is an architect.

Chairman Nestorowicz asked him to state the reasons for the petition and explain.

Robert Tobin said he would be happy to do that. He brought a site plan because the site plan the Board was not colored and can't see some of the things they plan on doing. The project was rezoned from R-3 to M-1 to allow the owner to provide outdoor storage because he's required to contain his trailers and his trucking, that's why they spent four meetings so far to get this approved by rezoning, going to Planning and then going to City Council, back to Planning and back in front of the Zoning Board of Appeals for final approvals. The site is 30,000 square feet in an industrial area with 7,350 square feet with a cold storage warehouse that has no toilets, no heating and no employees; it is used mainly to store parts. They have provided 3,240 square feet of outdoor storage area that will contain a storage unit, two storage trailers and three delivery trucks on a packed gravel surface. They also provided three off-street parking spaces for the employees that use the truck equipment; they only provided there because they only have three employees actually using the trucking on the site as it is now. The owner is planting 12,000 square feet of grass and two trees on the remainder of the site along with four existing large trees that will visibly improve the neighborhood. They are providing 280 linear feet of a six chain link obscuring fencing using plastic inserts along the south property line. The owner visited some of the neighbors on Cadillac Street and agreed to locate the south fence along the north side of the existing twelve foot Detroit Edison easement. In other words, instead of providing the fence along the property line they put it six feet north of the property line so that the folks will have wood fences and a shed and have more room, they won't have to interrupt the existing operation. The owner visiting the neighbors, as he said, on Cadillac Street and agreed to locate this fence along the north side of the existing twelve foot easement. Unless the owners south of the property couldn't retain their existing shed and wood fences. They will continue the six foot chain link obscuring fence a distance of eighty-seven feet along the east property line to screen the neighbors on the east side of the proper-

ty. On this site, the trucks will exit to Maxwell street and then to Sherwood and provide no impact at all on the neighborhood. Having sufficiently improved this site and working closely with the neighbors, they need this Board to grant them permission to waive the following: the Board already knows what he's waiving. He would like permission to provide 3,200 square feet of outdoor storage on compacted gravel surfacing. The hardship is to purpose their outdoor storage area consists of very hard packed gravel and crushed asphalt from many years of heavy truck parking; it is well suited for truck parking in that area. The next item, permission to waive 5,945 square feet of hard surface off-street parking. The existing 7,350 square foot is a cold storage warehouse with no toilets, no heating and no employees. Therefore, the only off-street parking they require is three spaces for the truck drivers. Next item is permission to prove a six foot obscuring fence with plastic slats located on the line six feet north parallel to the south property line. Their hardship: the owner had meetings with some of the property owners south of the site and proposed to locate an obscuring chain link fence with plastic slats six feet inside the property line and the neighbors were satisfied with this solution of the screening requirements. Last item, is permission to allow a six foot chain link fence and a gate in the area of the established building on the front property line. in other words, they would like permission to put a chain link along the front property line. The hardship is the owner provided a six foot fence on the property along Maxwell as a measure of safety for the neighborhood children to be protected from the onsite trucking operation. He believes that's his presentation and if the Board has any questions he would be happy to answer them. The Board can see from the site plan he has provided they have a tremendous amount of green area, they have a fence in multiple locations, the yellow is the for the outdoor storage parking they would like to have approved; he showed the Board the area for the three parking spots. If the Board has any questions he would be happy to answer them.

Chairman Nestorowicz thanked him. He stated this is a public hearing and wondered if there are any members of the public that would like to speak on this item to please approach the podium.

Violet Anchor, 6759 Cadillac, appeared before the Board and said her only question is on allowing the 3,240 square foot of outdoor storage on gravel. She wondered if it's just going to be the stuff that is out there now, she doesn't want this to become a junk yard. She lives directly behind this and that was her question.

Chairman Nestorowicz asked Robert Tobin to address that question.

Robert Tobin stated it would be enlarged.

Violet Anchor wondered if all that stuff that is out there now if that's all that is going to be out there. Is there going to be other stuff brought in after the fence is put on?

Robert Tobin said it's not best for him to answer, but he would like to have the owner, Ron Hurst, come up and answer it.

Ronald Hurst, 625 South Dorchester Ave in Royal Oak, appeared before the Board and stated he is the owner of RSG Industrial Repair. To answer the question, no they do not plan on an adding anything more than what it is existing there now. The storage trailers they're utilizing presently are what they plan on leaving; they don't plan on adding anything to it.

Chairman Nestorowicz asked Violet Anchor if that addressed her question.

Violet Anchor replied yes it does.

Chairman Nestorowicz wondered if there was anyone else from the public, he sees a few others that want to approach.

Susan Luszczki, 7063 Jackson in Warren, appeared before the Board and stated the address 6780 Maxwell was her mother's home, who is now deceased; her son has the home. She testifies that the parking lot issue has been ongoing since the seventy's. Her mother was always fighting that. She's sure it will be beneficial to his business but she doesn't see how that's going to add to the value of the homes, which are declining in value. Prior to the recent clean up, previously there were pallets stacked up there, tires, oil drums with who knows what in them, debris, trailers that have been in there for years un-plated, she doesn't know what is in them and she has pictures. She explained there are tires by them, there is stuff on top of it. They have the lot across the street and she doesn't know if those vehicles are going to be brought there, but there is un-plated cars, there's trucks. She asked Ronald Hurst if the trucks across the street are his because she sees his guys going in and out of there across the street.

Ronald Hurst stated there are two lots there. Some of that is his, but not all of that is his.

Susan Luszczki asked if all that was his and asked if Cars and More is his.

Ronald Hurst said no ma'am, he's RSG.

Susan Luszczki said she knows he's been using that lot and it's terrible. She admitted that when they started cleaning up the greenbelt it looks better. When they plow the snow off the lot, it goes directly to the house. Through the years the lot has been raised, so it slopes down to the house. When all that snow gets plowed from the lot, it melts and floods out the crawl space of the house. When they plow the street, which is nice, but it ends right in front of the house leaving a big snow bank, she doesn't know how that's going to help. She said Ronald Hurst is saying he wants to waive the greenbelt and wondered if he was referring to the greenbelt between the parking lot and the home on Maxwell.

Robert Tobin said there is no greenbelt. He asked Susan Luszczki what house she was talking about.

Chairman Nestorowicz asked them to have their discussion closer to the microphone because nobody else can hear what they're actually saying.

Susan Luszczi said she's looking at the house for 6780 Maxwell.

Ronald Hurst said he's not familiar with which house this is.

Susan Luszczi stated it's right next to his lot.

Ronald Hurst asked this one here, pointing to the site plan.

Susan Luszczi looked at the site plan and asked if a certain spot was his lot and where Maxwell was.

Ronald Hurst showed her where Maxwell was.

Susan Luszczi pointed to the first house and said that's the one she is talking about. She asked Ronald Hurst what he plans on doing with the snow.

Ronald Hurst started to explain an area would be grass. He said he doesn't understand because he's never plowed...

Secretary S. Brasza stopped them. She explained this conversation is between Susan Luszczi and the Board then they'll address it with the owner. At this point, the Board is not sure what she's asking or trying to bring up.

Susan Luszczi said these are the things that concern her: what's going to be stored out there, are they going to be trucks, storage containers, what?

Secretary S. Brasza asked about her other questions.

Susan Luszczi wants to know if there are going to be semi's going into that lot because it's not hard gravel, it's loose and there's a huge hole on that one driveway coming out right next to the house. She wondered if these semis are going to be going in and out. The windows in the house cannot be opened because of all the dust that comes through.

Ronald Hurst asked if he could address these.

Chairman Nestorowicz said the Board will address that when they have the floor.

Susan Luszczi doesn't see how it's beneficial to the homes in that area, that's her biggest concern. Like she said, it's been going on since the seventies. Mix that industry with the few remaining homes, she thinks it was a fertilizer company that was put in across the street, it was supposed to be beautiful and fix it up, but it's a mess. That's when you look out the front door. She's not sure if anyone on the Board has been

down the street but there is a huge dumpster with stuff all over it and debris everywhere. She knows what was in Ronald Hurst's lot prior to the clean up and she's afraid that's going to be there too. She suggested putting up a wall so they don't see all of that.

Chairman Nestorowicz thanked her for the comments.

Ronald Hurst told Susan Luszczki they're trying to put up a fence, that's why they're here.

Susan Luszczki said it's a fence and when you put plastics slats they break, that's her concern and that looks horrible.

Chairman Nestorowicz said Board will address that with the other. He asked if there are any other comments from the audience and to please approach. Told them to state their name and address for the record.

Michael Luszczki, 6780 Maxwell, appeared before the Board. He stated he lived in the house they were discussing. He is a registered nurse and before that he used to work for factories as a structural welder and he knows these storage units and the nature of the company that they're doing with hi-low repair. There is antifreeze, hydraulic fluid and different hazardous materials. When he used to work for factories they used to store these in these truck boxes and things like that. His concern is with the hi ground and the nature of their job, will there be any kind of runoff, what are they storing over there and he's not sure what they're going to use that zone for. He had semi trucks drive right up into his living room window in order to adjust so they could drop off equipment material and he doesn't know about the Board, but at a red light having a semi truck right next to your car is intimidating, let alone your front room window and this is where you live. There is approximately five or six that live on that block too. Since they fixed up that easement area it's nice but before that there was equipment everywhere, kids were playing all around on that and it was never meant for storage. Just the risk factors and everything else he was looking at, that is his main concern. He was trying to advocate for the kids, figure out what's going on there. He doesn't think the Board wants to mix commercial with residential in that type of nature where there is going to be storage equipment and what not. His concern is their company and what they're doing as far as hi-low repair with residential. He doesn't know if they're going to be backing trucks up, are trucks going to be allowed to drive along the side of his house with the wire fence with plastic slats that are going to disintegrate within about five years and really decrease, it looks horrible. There's kids that live right there, seeing this everyday with semi traffic going up and down.

Chairman Nestorowicz thanked him and wondered if there were any other comments from the audience.

Michael Luszczki wondered if there was going to be toxic chemicals stored out there.

Chairman Nestorowicz said they will ask what he's storing out there.

(Pause)

Chairman Nestorowicz stated not saying any other comments, he turned this matter over to the Board. He addressed a few of the concerns heard with the owner and let's start with the first one.

Robert Tobin wanted to make a remark that they are zoned M-1 and can provide this trucking and outdoor storage, that's why they started this whole program so they could have outdoor storage. He's sorry they're next to an R-3, but...

Chairman Nestorowicz stated he was understood, but they have a few questions to address and maybe he can just answer the questions the Board has. The first one, he heard a concern about what is being stored. He wondered if they could get answer as to what is being stored.

Ronald Hurst stated spare parts and componentry for lift trucks. Any hazardous materials such as oils and chemicals are stored in the main shop, which is on Sherwood. They are EPA and DNR compliant and have been for ten years. They get tested twice a year from the state and the county for sewer samples, they do the blue dye test and has tested residential clean for ten years. There has never been an issue with any contaminants on the grounds anywhere.

Chairman Nestorowicz said the second question is about the comment talked about the plastic slats and how those in time do wear. He wondered what the reason is for not wanting to put in the wall as opposed to using the fence with the slats.

Ronald Hurst explained that the neighbors he spoke to on Cadillac Street were at first apprehensive at all about putting up a fence, they like the wide open area. The cinder block wall, the masonry wall, would give a huge confinement feeling, a jail time feeling per se was the words that were used with a couple of the neighbors. They opted to set the chain link fence back and either go with the slats or go with the green canvas screening.

Chairman Nestorowicz said that goes into a question he had. On that side where he moved the chain link fence the neighbors on that side have a wood fence.

Harold Hurst said some of the neighbors have a fence, some have wood fence and some have a chain link fence.

Chairman Nestorowicz wondered if there was going to be a space between the two fences.

Harold Hurst said yes, there is an easement there that should be twelve feet and they opted to put their fence line back to give the opportunity for the neighbors to have more of a yard versus a closed yard with their fence on the property line.

Chairman Nestorowicz asked whose going to be maintaining that extra footage.

Harold Hurst said they maintain it presently and they will continue to maintain it.

Chairman Nestorowicz knows there was a concern brought up about shoveling and such. On the drawing of the site plan, it shows three lots worth of green space. When he was out there he didn't think that much was all green space.

Harold Hurst explained it presently is not, there is a mix of grass. Prior to him owning the property, there was a actual trucking company that was on site. A lot of the fall out they're hearing is from the existent trucking company that was there. He has worked extremely hard with the neighborhood and the city to clean up the messes that have been left, and their own messes, but especially to work with the neighborhood. He understands they weren't at the zoning meeting and the Council meeting, but they have worked very hard and diligent with the neighbors that this has affected. He tried to contact Michael Luszczki several times, but every time he went to his house he was not home and understands they were different shifts. He did try to work with the neighbors to get a feel for what it is that they wanted and to work with them as best they could. What is it they would like to see? Would they like see trees? What is in everybody's best interest for the property? He understands that they're next to a residential community, it wasn't planned that way and that's how it happened. He's trying to be the best they can and keep things as orderly as they can. To address the driveway that Susan Luszczki brought up, they have agreed with Planning to close that off. They're going to pull that driveway completely out, put a curb in and plant grass. They're not going to utilizing that section of yard for anything; it will be as he was told a park like setting. They're going to plant grass, trees and leave that be.

Chairman Nestorowicz said that actually addresses the other concern they heard about the shoveling and the snow because if grass is being planted in that area that right now doesn't have a grass, he would never be shoveling to that area.

Harold Hurst said absolutely not. He is confused about that because they never would plow that section or clean that section up because it was not utilized by them. They would however clean the street and on occasion when they could they would plow the entire street. They have a little four wheeler with a plow on it and would plow the entire sidewalk all the way down to Memphis for the neighbors, and that's them just trying to be a good neighbor; they didn't want to leave that for anybody.

Chairman Nestorowicz stated two more quick comments, he doesn't want to monopolize the time. He wondered how long Ronald Hurst has been in this property.

Ronald Hurst replied almost eleven years.

Chairman Nestorowicz said there was the concern about across the street. He didn't realize they had other property.

Ronald Hurst stated there are several lots across the street, they do not own them. They do rent, presently, a portion of that lot because he had left his trucks. He apologized for saying things incorrectly because he has ignorance for city politics. According to zoning, he was able to leave his trucks in a certain lot based on the fact they move on a daily basis. On several occasions had a lot of vandalism, had a lot of broke windows, batteries stolen and thinks of that nature. So, they then went ahead and contracted with the neighbor across the street to be able to park the trucks there so they were protected from the neighborhood and any vandalism until they were able to get their situation resolved to park his trucks on his lot.

Chairman Nestorowicz said for the notes he took he brought up everything. He is not sure if there is anything he did not cover that the neighbors talked about, but he wondered if there were any other comments from the Board.

Board Member Furgal said the neighbors need to understand, especially the neighbors that live to the east of the property that they are not going to be subjective to the outside storage at all because the outside storage is where the yellow part is on the site plan.

Ronald Hurst said correct.

Board Member Furgal stated the green big lot on the site plan is what is next to them.

Secretary S. Brasza said right.

Ronald Hurst stated yes, ma'am.

Board Member Furgal thinks the neighbors don't seem to understand that part.

Susan Luszczki stated the fence is going to go right on the property line, they're giving up the greenbelt.

Ronald Hurst said no, they're not.

Board Member Furgal asked if that fence also going to be setback.

Ronald Hurst said that fence is also going to be setback to allow...

Robert Tobin stated eighty-seven feet but their one hundred feet from the outside storage from that property.

Ronald Hurst stated from their property line. They're setting it back inside their property line, they're foregoing approximately eight feet. There will be that area that he will maintain as he has maintained it to this point, but they're going to put the chain link fence eight feet in from the property line.

Susan Luszczki asked from the house on Maxwell.

Ronald Hurst didn't hear her.

Board Member Furgal asked from the house on Maxwell.

Ronald Hurst replied yes.

Susan Luszczki began to say their concern to is...

Board Member Furgal said excuse me ma'am.

Chairman Nestorowicz stated unfortunately the public portion has been closed.

Inaudible.

Robert Tobin said he thinks the thing that's missing here is the fact that this gentleman is only parking a few trucks in an outdoor storage area close to the building.

Chairman Nestorowicz told Robert Tobin to hold on. Board Member Furgal had something else she wanted to say.

Board Member Furgal stated Board Member Anglin has a question and then she will say her motion.

Board Member Anglin had a question about the fence line. He stated they're bringing the six feet cyclone fence off to the north side of the property line where the building is at right up to the sidewalk and running it completely down the property line to the east side.

Robert Tobin said that is true.

Board Member Anglin asked if there is a reason why they need a fence in front of the building section, instead of just having the building as his property line.

Ronald Hurst stated he's not putting a fence in front of the building section. He's only closing off the entire lot so his vehicles will be protected. He's not putting a fence in front of the building, the building will serve.

Board Member Anglin said it will serve at the fence line. He said ok, because there is a dark line across the site plan.

Robert Tobin stated there are children in the area and they don't want the children to be exposed and wants them to be protected from any operation.

Board Member Anglin asked if the fence is going to be running along the west drive.

Secretary S. Brasza said that's going to be removed.

Robert Tobin said no, that's the north drive.

Board Member Anglin said it's the north drive, but on the west side of it.

Robert Tobin said Maxwell goes east and west.

Board Member Anglin said correct. So it's the north side of the property, the west side of the driveway there will be a fence running from the building to the sidewalk.

Ronald Hurst said yes, that will be approximately...

Board Member Anglin said there will be a gate, then he'll run the fence from the east side of the driveway completely right down next to the sidewalk to the far east point.

Ronald Hurst said that is correct.

Board Member Anglin wondered if there is a reason why he can't set that fence back to the curbing of where he's going to park the cars to leave a larger greenbelt because they do have a setback that they're supposed to put into place.

Secretary S. Brasza said it's not in front of them.

Robert Tobin said they could set that back ten feet that would match where the parking is.

Board Member Anglin said if he can do that then he would have no problem.

Ronald Hurst said he would be happy to.

Inaudible.

Board Member Furgal said he doesn't want it along the sidewalk.

Inaudible.

Board Member Anglin said if there is no further questions he would like to make a motion.

Board Member Sophiea said he has one question.

Board Member H. Brasza said more questions.

Board Member Sophiea asked if there were any plans to use any barbed wire on top of the chain link.

Ronald Hurst said absolutely not, no.

Board Member Fisher wanted to get some clarification on this. He was looking at the plans and it shows along the east property line a narrow gap between the fence and the house.

Secretary S. Brasza said six feet.

Board Member Fisher asked where the property line was. Is the property line the wall of the house or where the fence is?

Ronald Hurst said the property line is at the house, they're setting the fence line eight feet from the house.

Board Member Fisher wondered what they're using a big section of grass for.

Ronald Hurst said they're not utilizing it for anything. As it was explained to him in his meetings with Ron Wuerth, they're planting grass and trees to create a park like setting.

Board Member Fisher said he appreciates that. His question is that he's creating a park like setting.

Ronald Hurst said because it is not utilized.

Board Member Fisher continued to state putting a wall around it.

Ronald Hurst said he understands. The fence is to protect his property, his vehicles.

Board Member Fisher understands. He states that his vehicles aren't going to be on this section, so why does the fence have to be around this section if the greenbelt and the green area is to provide a park like setting for the community? Why not simply put the fence around the portion of the property that he wants protected because he's going to have the trucks there?

Ronald Hurst has no problem doing that.

Robert Tobin said to hold on a minute. He thinks what he's saying is that the fence is right against the neighbors house, it's only about four or five feet away. Would he feel

better if they moved the fence ten feet away again, give the neighbors a little more room to breathe?

Board Member Fisher wondered why any of that green area needs to have a fence around it. He understands that it is his property, but he's also asking for variance.

Robert Tobin said children have a habit of using a nice green lawn to do all types of things and they don't want them anywhere near the trucks, it's really to protect the children for putting a fence around the property.

Board Member Fisher wondered if they could agree to move the fence off the house an additional ten feet or so and also move it back off the sidewalk.

Ronald Hurst said absolutely, as they agreed with the first questions.

Robert Tobin said they would be happy to do that.

Board Member H. Brasza asked how off par from the sidewalk are they going to move it.

Robert Tobin and Ronald Hurst both said ten feet.

Board Member Fisher said in regards to the hard surfacing. It does appear there is a big hole by the one driveway, and he understands he's taking that driveway out, but he's a little hesitant in regards to the gravel surface when there's going to be trucks in and out so close to a residential neighborhood.

Robert Tobin said they're only going to have three trucks going in and out and they will go out to Maxwell to Sherwood. The neighbors will not be impacted at all; they have a minimum of three trucks.

Board Member Fisher said he is would be more comfortable with the other variances if he would agree to hard surface the parking lot.

Robert Tobin said to hard surface the outdoor storage area.

Inaudible.

Ronald Hurst wondered if asphalt is acceptable for a hard surface.

Robert Tobin said yes, asphalt is ok.

Ronal Hurst said if the community and the Board would give him some time to raise the funds, he has no issue doing that. That would only make his parking better and obviously would better the value of the property; he just does not have the funds to do that.

As any small business owner in this day and age, he's doing the best he can to survive and supply for his employees.

Board Member Fisher asked a question to the city attorney. He wondered if they would be able to grant the variances requested but put a sunset provision on the gravel surface.

Roxanne Canestrelli, City Attorney, replied no.

Inaudible.

Board Member Fisher asked how much time he would need to put a hard surface.

Ronald Hurst said with the summer season coming to a close, he wondered if they would allow him a year, to this point next year, he's sure he could have the property prepared.

Board Member Furgal said the gentleman is already giving up half his property, really just giving up his property to get what he's getting already. It's ridiculous to keep pushing him and pushing him, she's not in favor of it.

Chairman Nestorowicz thanked Board Member Furgal because he would actually agree with her. They're gaining three lots of green space that are not greenery now, losing the driveway that is currently an existing driveway. The owner is improving the property in that aspect and by moving the fence back to improve the area to the houses; he's personally fine with the gravel.

Board Member Pauta stated he'd rather see the hard surface area and the reason is because...

Chairman Nestorowicz asked her to speak closer to the microphone because he's having a hard time hearing her.

Board Member Pauta said she would rather see the hard surface area for the simple reason is that all these different trucking companies and repair, they all want to be on gravel and they're still contaminating the soil. When the Board makes a decision its forever. If this gentleman decides to leave and someone else comes in, it's going to cost them a ton of money to remove all the soil, gravel to put the property in a workable manner. The fencing is ok but she sees recommendation from the Planning staff that would rather see a small open storage area on a hard surface and that the petitioner should provide hard surface parking area.

Robert Tobin stated they have agreed to that.

Board Member Anglin said his understanding is that sometime within the next twelve months or so he would pave that part of the gravel section of the parking lot.

Ronald Hurst said he will do everything within his financial and physical power.

Board Member Anglin said he understands and it just wanted it to be said.

Board Member Anglin said if there is no other questions he would like to make a motion.

Secretary S. Brasza said there is. She wanted to give her thoughts to the Board because of this open storage there is storage, which is not three vehicles running in and out of the property. There is a lot of greenbelt to the east, there is a lot of greenbelt to the south, she can't imagine that three trucks and she wondered how often they are coming in and out of the property.

Ronald Hurst said one trucks move on a daily basis, the other two trucks move as secondary trucks. They may move once, maybe twice a week and they utilize the one truck as their primary delivery vehicle.

Secretary S. Brasza said they have asked this gentleman, and he's been so gracious to move his fence from the north south and from the east west, and now they're asking him to pave his gravel surface, which in the previous owner it was gravel so she is sure it is compacted to the degree in which there is not going to be a lot of dust. In her opinion, she is good with this.

Board Member H. Brasza said he is also ok with the gravel as is. He thinks if Ronald Hurst as the money he will pave it, but he doesn't think the Board should force him to pave it on their schedule because he is giving so much greenbelt, moving away from the houses and really just trying to work with the neighbors. Obviously there is no neighbors from the street behind him, the six foot thing, and that meeting must have went well. He thinks they have accommodated the people that are on Maxwell, giving them some green on the side of their house, taking it away from the sidewalk. He is ok with not putting a part of the variance that says it has to be paved.

Chairman Nestorowicz thanked Board Member H. Brasza.

Motion:

Board Member Anglin made a motion to approve the petitioner's request to allow 3,240 square feet outdoor storage on a gravel surface, waive 5,945 square feet of off-street parking, allow a six foot chain link fence with plastic slats and waive the required greenbelt or wall ten feet from the sidewalk and ten feet from the east property line.

Board Member H. Brasza said it's ten feet the whole time.

Board Member Anglin said number four to allow a six foot chain link fence in the front yard which will be the ten feet from the sidewalk. Due to...

Inaudible.

Board Member H. Brasza said his gravel area won't go back ten feet; it will be on the sidewalk at that point so he needs to include that on the offset from the sidewalk. It's not going to be all the way to the building ten feet off the sidewalk.

Board Member Anglin said the off-street parking is gravel.

Secretary S. Brasza asked a member if they were listening.

Board Member Anglin asked him to say that again.

Board Member H. Brasza said only the green area on the site plan is going to go ten feet off the sidewalk is his understanding and the rest will go at the sidewalk to the end of the building. He wondered if that is correct.

Robert Tobin said yes.

Board Member H. Brasza wondered if he was interpreting that discussion correctly.

Board Member Anglin said that is the way it would have to go, yes.

Board Member H. Brasza said to just make sure it's stated that way in the motion.

Board Member Anglin rephrased that to allow a six foot chain link fence with plastic slats and waive the required greenbelt or wall to the east of the parking and allow a six foot chain link fence in the front of the building, of the front yard.

Chairman Nestorowicz doesn't think he said it correctly.

Secretary S. Brasza asked if she could interpret that for him.

Chairman Nestorowicz replied yes, please do.

Secretary S. Brasza stated for number, allow a six feet chain link fence with plastic slats and waive the required greenbelt or wall and that it would be ten feet west of the east property line and number four allow a six foot chain link fence in the front yard east of the driveway to the east property line, ten feet back from the north.

Robert Tobin said correct.

Board Member Anglin thanked her.

Chairman Nestorowicz said very good.

Board Member Anglin said due to: the uniqueness of the property and not detrimental to the area.

Board Member Sohpiea supported the motion.

Chairman Nestorowicz stated they have a motion by Board Member Anglin, support by Board Member Sohpiea to approve the petitioner's request per the reasons stated in the motion.

Roll Call:

A roll call vote was taken on the motion and the motion carried (8 – 0).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Sohpiea	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED** with the above mentioned conditions.

Robert Tobin thanked the Board, it was tough but they appreciate the Board's help.

Chairman Nestorowicz thanked him and said to have a good evening.

Ronald Hurst thanked the Board. This has been quite a process, quite a learning experience for him. It allowed him to get out there, work with the neighbors, and work with some city officials he wasn't aware of. He thanked the Board for their time and their understanding.

Secretary S. Brasza thanked him

Chairman Nestorowicz thanked him and said to continue to work with the neighbors.

13. PUBLIC HEARING: **APPLICANT: Crown Enterprises Inc.-USE-**
REPRESENTATIVE: Daniel Onifer
COMMON DESCRIPTION: 2400 Frazho
LEGAL DESCRIPTION: 13-19-326-020
ZONE: M-2 & R-3

VARIANCES REQUESTED: Permission to-USE-

1. Allow open storage in an R-3 zone.
2. Allow a total 165,200 sq. ft. of open storage on the site.

ORDINANCES and REQUIREMENTS:

Section 17.02, Paragraph (c): Industrial Standards; Greenbelt required along all zoning district boundary lines which border on a more restrictive zoning district. Along all street property lines but may be omitted along the front yard when the front yard is landscaped. 8' wide per section 2.26.

Section 2.26, Paragraph (a): Greenbelt. An eight (8) foot greenbelt... and maintained in a healthy growing condition by either the occupant or owner of the property. A decorative masonry wall, not more than six (6) feet in height and not less than eight (8) inches in thickness may be substituted for either of the above greenbelts, upon approval of the Planning Director, and shall be maintained in an attractive condition and structurally sound.

Section 17.02, Paragraph (s): Industrial Standards; All open storage shall be located in a designated area approved by the Planning Commission as a part of site plan approval. The area shall be enclosed on three (3) sides by chain link fencing with metal/plastic slats used for screening as deemed necessary by the Planning Commission. The designated area shall always be hard surfaced and screened from the public street and any residentially zoned areas. Further, the designated area may not exceed fifty (50) percent of the gross floor area of the primary structure on the site in M-2 zone and is not allowed in an R-3 zone.

This item was removed during the adoption of the agenda.

14. PUBLIC HEARING: **APPLICANT: State Crushing Inc**
REPRESENTATIVE: Robert Tobin
COMMON DESCRIPTION: 25501 Sherwood
LEGAL DESCRIPTION: 13-21-326-009 to 13-21-326-012
ZONE: M-3

VARIANCES REQUESTED: Permission to

1. Retain the truck scale in the front yard to within 70 feet of the front (east) property line along Sherwood.
2. Allow hard surface parking in the front (east) yard setback along Sherwood.
3. Retain 6 foot chain link fence on the front (east) property line along Sherwood.
4. Retain 6 foot chain link fence with vinyl slates along the rear (west) property line, waiving the required greenbelt or wall.
5. Waive the 60 foot rear and side set back from the southwest stock pile "A" of broken concrete.
6. Retain the gravel surfacing and existing drainage on the site.

ORDINANCES and REQUIREMENTS:

Section 17.02 Paragraph (a): Front yard setback for M-3 is 150 feet.

Section 17.02 Paragraph (a) Item (3): In M-3 zone, front yards may be utilized for parking or vehicles provided that the front fifty (50) feet of a lot or tract in an M-3 district shall be landscaped and the balance shall be depressed at least two (2) feet so as to have all parked vehicles therein, completely out of sight or view of the roadway.

Section 4D.39: All fences and walls constructed or installed between lots shall not exceed a height of six (6) feet above the average grade of the two (2) adjoining lots and

shall not extend closer to the front lot line than the established building line or front set back line.

Section 17.02 Paragraph (c): Greenbelt – along all zoning district boundary lines which border on a more restrictive zoning district. Along all street property lines but may be omitted along the front yard when the front yard is landscaped.

Section 2.26: Greenbelt – A decorative masonry wall, not more than six (6) feet in height and not less than eight (8) inches in thickness may be substituted for either of the above greenbelts, upon approval of the Planning Director, and shall be maintained in an attractive condition and structurally sound.

Section 17.02 Paragraph (b): Side yards, and rear yards setbacks for M-3 is 60 feet, each.

Section 17.02 Paragraph (s): Open storage other than junk. All open storage shall be located in a designated area approved by the Planning Commission... shall not be located in any area required for parking... The designated area shall always be hard surfaced and screened from the public street and any residential zoned areas... In M-3 the outside storage may not be closer than one hundred and fifty (150) feet from any street right-of-way line.

Chairman Nestorowicz asked Robert Tobin to please state his name and address once again just for the record along with the reasons.

Robert Tobin, 2201 Twelve Mile Road in Warren, stated this has been another long project and they spent a long time on this project, in fact, it's been going on for a year and a half. The project was originally scheduled for a Planning Commission meeting on March 21st. It was reviewed and recommended for approval but it was tabled and rescheduled for an April 4th Planning meeting but again tabled to resolve the problems with the Michigan Department of Environmental Quality; that's one of the problems they had here. These problems however have been solved. The Planning Department requested that they attend the Board of Appeals meeting to waive certain items before they again attend a final Planning Commission meeting, that's why they're here tonight. The existing owner, State Crushing, bought this existing concrete crushing facility three years ago, located in an existing industrial area, with an entrance on Sherwood and it services several industrial plants along Sherwood. The site is a large six point three acre property zoned M-3, which is a proper zoning for this operation. It contains 4,761 square foot office and a shop building, that's how big the office is. They have provided 5,380 square feet of off-street parking which exceeds the required parking ordinance, they have provided a six foot chain link fence around the perimeter of the property and provided 386 linear feet of obscuring fencing along the west property to screen the operation from the residential neighbors. They have provided 90 lineal feet of concrete rumble strips to help shake out the loose material on the trucks as they leave the site; that was recommended by the Planning Department to put these rumble strips in to keep the dust and dirt from coming out on Sherwood Avenue. They also provided concrete rumble strips at the exit to accomplish the same thing. The owner will also build 300 lineal feet of twelve foot high grass covered berms on either side of the entrance to cut down the noise and to screen the operation from the neighbors across Sherwood Avenue. The owner has cooperated with the state and environmental

agencies by considerably improving the site under their direction. They therefore request this Board to grant them the following requests: the Board knows what the requests are. He said he's going to explain the purpose of each request and the hardship for each case. Permission to retain the truck scales in the front yard to within 70 feet of the property line, the former owner of this site provided this truck scale in this position and it is essential for the owners existing business operation. Item #2, permission to allow hard surface in the front yard setback, hardship is the concrete surfacing is an existing parking lot is for the owners, employees and customers. Item #3, permission to retain five foot chain link fence on the front east property line along Sherwood Avenue, hardship is the fence is necessary to prevent anyone from entering the site as there are safety concerns in the operation of this business. Item #5, permission to waive sixty foot setback from the southwest stock pile "A" of broken concrete, the stock pile is located to facilitate the owner's ability to properly operate the business. He point to the site plan and showed the Board where the stock piles are. He stated that it is raw concrete brought it, and then it is moved to different pile of the crushed concrete for distribution. Item #6, permission to retain the gravel surfacing and existing drainage on the site as per the plan, the existing gravel has been extremely hard packed after many years of truck loading and unloading, the existing operation has no complaints from existing neighbors. It's a very large site, very unusual operation but the owner took it over and has been spending the last year and a half fixing it up to satisfy not only the Planning people but also the environmental folks up in the state. With that, he said he will let the Board talk to the owner if they have any questions.

Chairman Nestorowicz thanked Robert Tobin. He said this is a public hearing and if any members of the audience would like to speak on this item to approach the podium.

(Pause)

Chairman Nestorowicz said to state their name and address into the record.

Tim Roth, 6217 Engleman Avenue in Warren, appeared before the Board. The concern is with the dust, with the hard packing and what he's talking about, the dust is out of control. He can't even open his windows over there, it's over growing where he doesn't maintain the trees. He has to wash his cars everyday and by the end of the day it's covered with dust again. He has a show car in his garage because the crushed concrete and all that is in the air. The owner is working all hours of the evenings and he thinks it's just uncalled for. The slats that they're talking about, there's a chain link fence behind there which is in raggedy condition, he has barbed wire on top of that, which is against the law from his understanding that can't be on top of the fence, there is fallen over trees on the other side of the fence. If he looks out his back door, he has to look at this stuff. There is a big gravel pile out there and the noise is out of control. The owner doesn't want to do anything, he told his wife that he would do something about car passes and stuff to wash the cars, but he hasn't done anything. She contacted the owner about a month and a half ago and he said he'll come by to talk about it and get passes, he didn't want to do anything about that. The owner said his equipment broke downtown, he had to take care of that and he'll get back with them;

he's never done that. The ground he's talking about the dust is out of control, he doesn't know how they could say it's hard packed and he thinks the owner needs to do something with that. Then the drainage, he has pictures of that, it's coming off the pile that he has stocked there now going into the street where the street floods because of it, his backyard floods from it, the neighbors across the street been through it, the city has been out there replacing sewers because of it. He thinks something needs to be done about it and doesn't think the owner should be granted what he's wanting, because it's bad. The dust comes in the house; you dust one day and then it's back. He needs to do something with the dust because it's not fair to the residents that he's making money on all that stuff. He's been out on back surgery for eight months, just finally went back to work; hard to survive. How do you respect the house you live in and raise your family when you have all that dust coming in your lungs and wrecking everything; can't open a window and it feels like being caged in a house? The owner needs to do something because it's not fair and a chain link fence is not going to be tall enough to stop the dust and noise coming from over there.

Chairman Nestorowicz thanked him and said the Board will address those issues with the owner. He wondered if there were any other members of the audience.

Inaudible.

James Simpkins, 6216 Engleman in Warren, appeared before the Board and stated he is the south west corner resident. He has experienced a great dealing of flooding, dust has been out of control; he lives right across the street from Tim Roth. This has been an ongoing problem for some time now. He had a flood that was so bad it destroyed part of a brick wall at DK Trucking, which the owner is here with them too. Again, this dust issue they were talking about between State Crushing, the owner was supposed to come by and power wash the house, but he did come by and give them a couple car passes to have their cars washed, but that's just a band aid. Something needs to be done with this dust because he can't even open the windows in his two story house and it is just atrocious. He has an old classic car and had to go out and buy three different tarps to try to keep this thing enclosed because the dust is just phenomenal. Take the dogs outside early in the morning and coming back there is mud all over their paws and he just had his driveway poured four years ago; he's constantly trying to keep it clean. The street is constantly flooding, great deal of water run-off all the time. He asked the owner to put down water with a scoop that goes around, that's what the previous owner Joe Davis did. It does help minimize it to some degree, but he thinks there are some other things that could probably be done. He asked if somebody could help him out in that respect.

Chairman Nestorowicz thanked him

Inaudible.

Ulysses Grant Simpkins III, 6216 Engleman, appeared before the Board. He stated he lives with his dad, the person who just spoke. The flooding is the biggest issue, along

with the dust. He has severe asthma and allergies with dust; he has Qnasl and Advair now because it's getting so bad. He told the Board if they want proof he can get that with the medications if they want it. It came to him when they first moved in and it wasn't as bad because the owner didn't have all his dust stuff put in, but once he started production it has been a nightmare trying to even out of the front door because he has severe asthma since he was eight years old. He never had asthma up until fourteen afterwards because it went away, but once the owner came in his asthma started to come back heavily; his doctor has records and proof of it as well too. What they really need to do is find a way to minimize the dust. Considering this is a city, and as the Board should all know, a rock company should not be in a city because they're going to cause a lot of dust problems; it should really be out in the country side. If they do operate in a city make sure the dust is minimized and keep people from getting dust on their cars and causing health issues. Every time he turns around he has to go outside, help his dad clean the cars and he owns a 1931 Model A and he has to keep cleaning that gosh darn thing. Believe it or not, yes, he does have to keep cleaning that thing because it's getting that bad. There is also the wall issue. The wall collapsed due to the owner's land is higher up than him and when it rains it pours, quite literally. When it did the wall collapsed and caused their garage to have a massive sink hole and now it's collapsing from that. There is only one city drain behind his neighbor and considering their house is kind of on a slope that goes straight downward, that's the only place it can go and their garage is suffering from all of that; they do have a lot of stuff in the garage. He wants to see a French drain in the owner's property or along the property to minimize the damage from the rain. There used to be a little creek between DK Trucking and the rock company and that French drain used to be there, now it's gone because they put more dirt and what not to build it up higher which caused the French drain to disappear; since then they have had massive problems. He would like to see that issue resolved as well. He thanked the Board for hearing himself out.

Chairman Nestorowicz thanked him.

Greg O'Connell, owner of D & K Service, appeared before the Board. He stated he is one building directly south of Statewide Crushing; he has been there since 1985. He has been working with Joe Davis for many years. He thinks the big problem between Joe Davis did and what State Crushing is doing, is Joe Davis only did aggregate, or crushed concrete of three inch and larger. What's happening is, the owner is bringing in dirt and the dirt is being stored very close to Sherwood. When the trucks are loaded they go out and they are absolutely destroying Sherwood with dirt. He has pictures of his building with trees growing on the roof; which two or three years old at best and he had a tree growing on it. He's a trucking company with six acres just like he does, they try to keep the dust down the best they can, but dust is dust and they're always going to have it. It's the maximum of dust; it's on Sherwood. He can't even bring vehicles to his property, he will not bring his own car to his building, and he'll park across the street at the VFW because it's that bad. The people that had the allergies in the place, the dirt; it's just bad. Being that he is doing more and more, his property is getting taller and taller and taller. Just like the neighbors are saying about the flooding, it's not being drained properly so it's all crowning off of his onto everyone else's. The owner has had

several tickets from the city, they've called and tried to straighten out the problems with the owner, he's met him not too long ago, nice guy and not complaining about him or his business at all, it's the nature of what's going on there. It's a big operation for a little a piece of property and to go on any higher than what it is, the dust is just really, really, really bad. The flooding that's going on, he doesn't know how many feet it was but close to sixty foot of wall that collapsed into the neighbor's yard. The city wanted it fixed but he couldn't do anything because they had drained a pond that he was cited for that he shouldn't have drained and it was gallons of thousands of water; that's what destroyed the wall. He still has more wall that looks like it's going to collapse in anyway. He tried to get a variance with the city to get a fence because it is expensive to put the cement wall back on and he had to do, so he has another new portion of wall in there. For him to ask for fencing in back there, it's a little ridiculous when you're looking at a good size hill of debris back there. He's not against things, he just sees what is going on, and he's seen the properties going down. He used to get a Warren Beautification every single year, his building was very nice, but his value has gone down, absolutely down. People come and look at the place and that is his home that is where he spends most of his hours. He is not a resident, he is a building owner so it's different but still he spends most of his time there and quite frankly he doesn't even like going there anymore and he never wanted to say that; it is very difficult. The owner is trying, he has the street sweepers out there, and it's been dry this year so they have been fortunate but the dust is just horrific out there. It just seems to drop off because they're on a corner there, it collects like no other there. The fire hydrants have to be cleaned a lot, sewers. The dust is just... it's actually dirt, dust is ok but this is plain old dirt. They can't control it, they have no way of doing anything and they just don't know what to do with this. The thing that struggles him the most is the valuation of his buildings. The building there used to be one of the nicest on the block and it's no longer that way. It's not directly that gentleman's fault, but it's just the operation that he is in is creating this problem. If it was just rock there he thinks it will minimize it by fifty percent, but being that the dirt is there it just keeps on growing. He thanked the Board for listening.

Chairman Nestorowicz thanked him.

Barbara McIntyre, 1252 Beaupre in Madison Heights, appeared before the Board. She stated she is an employee at D & K Service. She explained there are three females that are in the office all the time. They cough and they sneeze all day long, they go through more Kleenex three hundred and sixty-five days of the year. When she's off for a week at least it starts slowing down after about three or four days, but as soon as you get back in the office its back. There has been times when she couldn't leave because the dust was so bad. She had to wait in the lobby before walking out of the small office, the dust is so bad and billowing out she doesn't want to get all coated. On these hot days the car windows can't be left down, can't even go out for fifteen minutes before leaving to let some heat out because it's just going to be dust filled. She has to wait till she's off of Sherwood to be able to even up a window. As far as the owner's property, she wasn't sure if she heard him say there are berms already in existence or there's going to be berms created with grass. All they have now is piles of dirt and worse and

it's just filled with leaves and junk. She looked at a PVC pipe out her window for over a year. When the owner tried to come in and talk with them and try to be nice and try to work with them, after many, many phone calls and after a year of not being compliant, not paying his fines, showing up to court, etc. it kept getting delayed. All of the people that have to work in that area or live in that area had to keep dealing with it because they had to wait for the process to take place and they suffered during that time. If people have to worry about the blight on their property and they're not maintaining their shrubbery and trees at the fence line, she's seen the city come in and take care of it for him; Greg O'Connell doesn't have that option to have someone else come in and take care of it for him, he takes care of it. Those piles of dirt and junk that just have leaves all over the place, and God knows what's in them. It's just too bad that it has to be kept like that and nobody cares and they have to come to places like this and waste the Board's time and waste her time with trying to get somebody to be a compliant neighbor. Business or not, he's making a profit off of it and they suffer. She thanked the Board.

Chairman Nestorowicz thanked her and wondered if there were any other comments from the audience on this item.

No response.

Chairman Nestorowicz said not seeing any he turned this matter over to the Board. He mentioned to Robert Tobin that the owner was here to answer questions. He asked if the owner could approach the podium and state his name and address for the record.

Ray Orozco, 1898 Lincolnshire Drive in Rochester Hills, appeared before the Board.

Chairman Nestorowicz stated he had noted down a number of concerns that were heard from the neighbors. He heard a lot of concerns about dust, heard a lot of concerns about drainage and flooding.

Ray Orozco said right.

Chairman Nestorowicz thought those would be some good places where he could offer his comments about the dust issue that the neighbors and adjoining owners have seen and the flooding problems they have seen.

Robert Tobin pointed on the map to show where those neighbors are.

Ray Orozco said he knows where they are. He said he is aware of all their issues, he really is, and he's sympathetic to all issues. The business has been there since 1970 or 1960 something, they took it over about August 20th of 2013. He ran the business as it as ran for year and years as Joe Davis ran the operation. Things are trickling in with people asking him to clean the road a little bit more, clean this a little bit more. After a while he stopped and hired Robert Tobin to see what he has to do to be in compliance, make the city happy and the neighbors happy. That's when he started last year going

around and talking with some of the neighbors. He thinks he probably should have done that the day he bought that place, it probably would have helped out a lot. They have put in over \$250,000 of documents of receipts into the property from windows, roofs, everything you could imagine on a property that has been neglected for forty years to improve the cosmetic looks of the property, to improve the overall appearance on Sherwood Road. He doesn't want to take the approach like he's some kind of slumlord person who doesn't care and only wants to make money and forget about the people behind him; it's not the intention at all. He thinks the dust issue would be alleviated a lot if he was granted to put a three inch pipe into his facility which would give him a lot more water volume for the dust suppression to get onto his piles. Right now he has a typical $\frac{3}{4}$ " water tap in so he doesn't have enough water volume to keep the dust down; that would probably eliminate about eighty percent of the dust issues. At the other facility in Auburn Hills has the exact situation, they had that for thirty years, they're compliant, they have a river, larger water volume and they don't get any of this conversation about it. They have more neighbors, mobile home parks all around them and they seem to manage the dust. There is going to be dust, it's the nature of his business, they're zoned for heavy industrial, there is going to be dust. He sympathizes with the people around him that live there and the business around him. He is willing within reasonable measures to do anything to help out those situations, at the same time be conscious that he is a business owner that put a quarter of a million dollars into a property over a twenty-four month period.

Chairman Nestorowicz said one of the questions he heard was about the chain link fence and the slats, he wondered what the reason was for not putting in the wall, as opposed to the chain link with the vinyl slats.

Ray Orozco believes that a wall would get knocked out pretty quickly during his operation. It wouldn't taking something very minute, a truck, a boulder or anybody bumping into the wall could crack it. The wall that the gentleman mentioned from the water, he went over there and talked to DK Trucking. He stated it was a thaw, it was a rain, it was a disaster, and it was a hundred year pull that rushed into that corner. The reason it rushed into that corner is because that corner is a corner... He will testify that he's said he wants to put a French drain exactly where the gentleman said, he's been trying to get that in for a year. In order for him to do that, as soon as he pulled away the concrete pile to do it, they had a thaw and a rain for three days, and it filled the hole and the water rushed to wipe out the wall.

Robert Tobin pointed to the map to show the area they are talking about.

Ray Orozco said the French drain is a great idea. He called his insurance company, he talked to Greg from DK and they took care of his wall, he has no idea what it cost, could have been \$100,000; it was his water that went over to that property so he took care of it. The other lady with the dust, he apologizes he didn't get back to her, he did call her and would like to stop by, he just hasn't done that. Last year he stopped at her place and asked if there was anything he could do for her, she asked if he would help clean her air ducts because her husband had back surgery and they were out of work.

He has the receipt because he did clean the air ducts for her. Whatever she asked, he did.

Chairman Nestorowicz wondered about the wall. He asked why he wouldn't want to put the wall in instead of the chain link fence with the slats. He wondered if that wall would actually be better for the neighbors.

Robert Tobin pointed to the map telling Ray Orozco the area of the wall Chairman Nestorowicz is talking about.

Ray Orozco asked along the back of the property.

Chairman Nestorowicz said yes, because he's asking to waive the wall.

Ray Orozco wondered if he meant along the back of the property.

Chairman Nestorowicz said yes.

Secretary S. Brasza stated the west property line.

Ray Orozco said he will put a wall up there, but he's taking the seventeen, twenty, thirty-five foot berm down completely and they're going to be looking right into his yard for the rest of their lives. He was told they love that berm. He showed on the map where it goes to, and their homes are right behind it. He's not saying it's the most beautiful foliage, it's leaves, it's green, it's screened. He talked to James Simpkins' wife and they said they wanted that, they liked that. They asked if he could keep it a little bit cleaner every now and again, he's all about keeping it clean. But if they want him to take that down, and he can get another thirty, forty or fifty feet of his property line, he's all about it. He will do it as soon as the Board grants it, but they will not have any foliage or any screening to his property. The dust will be worse and the view would be even more terrible.

Chairman Nestorowicz said variance number five, waiving the sixty foot rear and side setback from the southwest stock pile "A" of broken concrete, he wondered what the reasons for that are exactly.

Ray Orozco asked behind his back property, against their homes.

Chairman Nestorowicz replied yes.

Ray Orozco said him and Robert Tobin talked about it, he thought it would be pretty costly and the neighbors don't even want it.

Robert Tobin said it's residential, they have to have a wall against residential but what he's saying is that there is a twenty or thirty foot berm now to hide it, they have to take it down to put the wall up and that doesn't make any sense either.

Chairman Nestorowicz said one of the things they're waiving is asking to waive the sixty foot rear and side setback from the southwest stock pile, they're very close in terms of that broken concrete to the rear.

Ray Orozco said if the neighbors agree to it, he'll put a wall and if he does put the wall in he'll get that thirty or forty feet of space that he has right now that he's not using back and there will be no screening and no visual.

Secretary S. Brasza said he's not understanding the question. In number five he's asking the Board to waive the following: to waive sixty feet of the rear and side setback. That is the issue in which his neighbors are speaking is the problem.

Robert Tobin showed the stock pile on the map.

Ray Orozco was looking at the map for the fence line to figure out what neighbors.

Secretary S. Brasza said they're not talking about the fence line, that's not what they're asking. The question asked is why number five.

Inaudible.

Ray Orozco thought the Board meant to put a fence or a wall.

Secretary S. Brasza said they moved on from there.

Ray Orozco said got it.

Robert Tobin said it would have to go back another thirty feet.

Ray Orozco said to take the concrete raw pile more back into the property, he said that's fine.

Robert Tobin said that is item number five, they can comply with that by moving it back.

Ray Orozco said he can move it back, he just might need a little to do it.

(Pause)

Chairman Nestorowicz asked Secretary S. Brasza if she was done.

Secretary S. Brasza said she would like to ask a few more questions. She is going to say and she's going to explain why. She understands he is a new owner and it sounds like he is getting into a more intense use than the previous owner. All that she hears is that the drainage issue is a very big problem and he's asking them to retain the gravel surfacing and existing drainage, which means it will always be a problem Number two,

that all the dust is all over the place, so a wall to her would at least retain that dust, a fence isn't do a thing. So he's asking the Board to both retain the east and the west property lines, which no, wall. Allow hard surfacing in the parking of the front area, she can't do half and not the whole on this particular request. She's putting out her thoughts to the Board because at this point she would even suggest tabling this, there is a lot of issues here, it shouldn't be in front of the Board, she would like to see Planning do their job and then come back. The truck scale, that's neither here or there for her, she is sure that has to do with his business.

Robert Tobin said in M-3...

Secretary S. Brasza said she is talking to the Board. For those reasons, if she was to go through her list of variances in the particular difficulties in regards to this; requests are not necessary, it's personal and economic, it is a detriment to the area to not allow these waivers, it is self imposed and this property is not unique. It's a burden to the neighbors and for that it doesn't fulfill any of the six that are necessary to grant a non use variance.

Chairman Nestorowicz asked if that was a motion. He wondered if they were tabling this for Planning to address.

Secretary S. Brasza said there isn't any other discussion...

Board Member Pauta said she absolutely agrees with Secretary S. Brasza, but with a little bit of assistance from Planning and Engineering division that he could resolve some of the drainage problem. There is a way to install the wall, lower the berm, there is a way; he would have to talk to a specialist to do it. The statement they have in their packets stating there are no complaints with the neighbors, not true. She was there on Monday and saw the dust blowing around. The environmental control from the state, he wondered if they send out a representative.

Ray Orozco replied yes.

Board Member Pauta wondered when they approved it.

Ray Orozco asked what exactly did they approve.

Board Member Pauta asked when and how could environmental control from the state approve his site.

Ray Orozco said they approved it, he has a permit, since the property has been there. He a dust plan permit, a DEQ permit and he's been to Lansing three times and he's been to dust class and he has a certified dust surveyor within his company; it's very regulated and they come out very often.

Board Member Pauta stated in the event that he returns to this Board, she would like to

see documents from the state of Michigan saying that they're going to approve this.

Ray Orozco said he has those in his pockets right now.

Board Member Pauta wondered if he combined all these lots as one. She wondered if he has done that yet.

Ray Orozco answered that's how he bought the property, the existing business did that prior to him.

Board Member Pauta said excuse me.

Robert Tobin wondered how they're going to solve the dust problem, because he has a permit that...

Secretary S. Brasza said Board Member Pauta.

Board Member Pauta said she'll turn this back to Secretary S. Brasza.

Secretary S. Brasza wants to make a motion to table this, but Planning is waiting for them, she said it's not going to happen.

Inaudible.

Secretary S. Brasza said all these issues can't be resolved if they pass this, nothing can be looked at, it's giving them permission to do all this and not ever looking at it. She thinks it needs to go back and have this all looked at.

Motion:

Secretary S. Brasza made a motion to table the petitioner's request...

Ray Orozco said he doesn't mean to interrupt her but there is a few things...

Secretary S. Brasza said this is their meeting, she's directing this their Board and this is a decision they will be making. She would like to state October 12, 2016 and that will give them plenty of time.

Board Member Sohpiea supported the motion.

Secretary S. Brasza stated that would be a motion to table to October 24th.

Chairman Nestorowicz thinks, especially item number six to retain gravel surfacing and existing drainage on the site, Planning and Engineering need to address that before it comes back to the Board. He is worried that it comes back to the Board and it won't be addressed.

Secretary S. Brasza said they postpone it again. They've heard the Boards reasoning. She told him to state his reason.

Chairman Nestorowicz asked for?

Secretary S. Brasza said to support and state that.

Chairman Nestorowicz would like to support but he would want Planning to address that before and he wouldn't want it to come back without Planning addressing that.

Inaudible.

Chairman Nestorowicz asked if they could table it indefinitely until Planning addresses that.

Secretary S. Brasza said yes, date uncertain.

Chairman Nestorowicz supported to table this to a date uncertain to be able to allow Planning to address the gravel surfacing and the existing drainage of the site along with Engineering because he thinks that needs to be addressed before this comes back to the Board.

Board Member Sohpiea said support.

Secretary S. Brasza said she was the motion. Chairman Nestorowicz supported it with that.

Chairman Nestorowicz has a motion by Secretary S. Brasza, support by Chairman Nestorowicz to table this indefinitely to allow Planning and Engineering time to address the existing drainage and surfacing at that site before it comes back to the Board for any further discussion.

Robert Tobin said now they know the reasons.

Roll Call:

A roll call vote was taken on the motion and the motion carried (8 – 0).

Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, to table.
Board Member Pauta	Yes, to table.
Board Member H. Brasza	Yes, to table.
Board Member Fisher	Yes, to table.
Board Member Anglin	Yes, to table.
Board Member Sohpiea	Yes, to table.

The petitioner's request has been **TABLED.**

Chairman Nestorowicz said since it's been tabled to a date uncertain based on what Planning will come back with, that will be reposted and notified to the neighbors.

Secretary S. Brasza said a lot of these issues might not be...

Roxanne Canestrelli said that is correct.

Robert Tobin said it's a little confusing to those folks that were here because the first four items were just in the setback, it's a one hundred and fifty foot setback so the first four items. He wondered if they're addressing items five and six.

Secretary S. Brasza said the Board needs him to come back with three, four, five and six adjusted.

Robert Tobin asked if they had to come back with three, four, five and six. Ok, that's what he needed to know. Three, four, five and six...

Roxanne Canestrelli told Robert Tobin for clarification, the Board of Appeals has not granted any of the variances, so when he comes back he has to present on all of the variances.

Secretary S. Brasza said right, those items are the Boards concerns.

Robert Tobin asked if it would make sense if they went back to Planning first and then back to the Board.

Board Member Furgal stated that's what they're requesting.

Secretary S. Brasza said yes.

Chairman Nestorowicz said yes.

Robert Tobin said that's what he wanted to find out.

Secretary S. Brasza said engineering too.

Robert Tobin stated they're going to Planning and Engineering then back to the Board, they tabled him indefinitely until they go through that.

Chairman Nestorowicz said correct.

Robert Tobin said that's what he needed to know and thanked them.

Chairman Nestorowicz said they have heard the Boards concerns on three, four, five

and six with the drainage, the setback and the fencing wall issue.

Robert Tobin said that's cleared up.

Secretary S. Brasza said too much in that package.

15a. PUBLIC HEARING:	APPLICANT: General Motors
REPRESENTATIVE:	Mr. Jason A. Harris
COMMON DESCRIPTION:	30100 Mound Road
LEGAL DESCRIPTION:	13-09-300-001
ZONE:	M-3

VARIANCES REQUESTED: Permission to
Construct a parking deck to 49' – 1" in height as per the plans.

ORDINANCES and REQUIREMENTS:

Section 17.02 Paragraph (d): Building height not to exceed 40 feet.

Chairman Nestorowicz asked them to state their name and address for the record along with the reasons for the petition.

Jason Harris, 6750 Chicago in Warren, appeared before the Board. He stated he is from General Motors and speaking on their behalf today is Pat Doher with Smith Group JJR.

Pat Doher thanked the Board for taking the time to hear their Zoning Board of Appeals request. The first request for item 15a is for a height adjustment; they're in an M-3 zoning ordinance. They're only allowed within the ordinance to be at a forty foot maximum height. They did go to the Planning Commission with this project; it's called their design center parking deck. The reason why it is because it's going to be serving not only the existing design center but will also be serving the expanded design center that will be coming before the Planning Commission in the future. The expanded design center is going to require new parking, it's being expanded in an area that is existing parking, and therefore they need to increase their parking counts. For this particular project they're adding 1,128 parking spaces, the parking deck will be five levels and the height will be forty nine feet and one inch because of the clearance requirements they need in order for them to accommodate the vehicular traffic going in and out of the deck. He did want to reference to the Board a couple of things and also talk just for a second about the hardship. The first reference is that this parking deck will be adjacent to the existing design center. The dome, historic structure within this historic campus is about sixty-five feet high in this area so they're good sixteen feet below the level of that dome. Obviously, the hardship is that as the campus continues to transform and General Motor's expansion of its global business operations, they're adding square footage, adding research and development, they have a very limited space opportunity and this allows them to take the parking vertical and be able to increase green space and provide for future expansion. Just for reference this parking lot is in the southwest cor-

ner, so it's in the northeast quadrant of Twelve Mile, it's north Twelve Mile and east of Mound Road.

(Pause)

Pat Doher showed another site plan stating this is just for reference, it's footprint of the parking deck. Again, it's 1,128 parking spaces, five levels, can see Mound Road at the bottom and Twelve Mile to the right. They also have an elevation that would be difficult for the Board to see but obviously the request is to increase from the allowed forty feet to forty feet and one inch for the height of this deck.

Chairman Nestorowicz stated this is a public hearing and wondered if there are any members of the audience who would like to speak on this item.

No response.

Chairman Nestorowicz turned this matter over to the Board.

Motion:

Board Member Anglin made a motion to approve the petitioner's request to construct a parking deck to 49' and 1" in height as per the plans. Due to: uniqueness of the property.

Board Member Fisher supported the motion.

Chairman Nestorowicz stated they have a motion by Board Member Anglin and support by Board Member Fisher to approve the petitioner's request for the reasons stated in the motion.

Roll Call:

A roll call vote was taken on the motion and the motion carried (8 – 0).

Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Fisher	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Sophiea	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED.**

Jason Harris and Pat Doher thanked the Board.

Board Member Pauta asked if they would like their site plans back because it would be a shame to waste them.

Chairman Nestorowicz asked if they would like their plans back.

Inaudible.

Chairman Nestorowicz said no, ok.

15b. PUBLIC HEARING:	APPLICANT: General Motors
REPRESENTATIVE:	Mr. Jason A. Harris
COMMON DESCRIPTION:	30003 Van Dyke Avenue
LEGAL DESCRIPTION:	13-09-400-002
ZONE:	M-3

VARIANCES REQUESTED: Permission to
Construct a parking deck to 68' in height as per the plans.

ORDINANCES and REQUIREMENTS:

Section 17.02 Paragraph (d): Building height not to exceed 40 feet.

Jason Harris stated once again good evening ladies and gentleman of the Board. Speaking on behalf of the General Motors tonight is Pat Doher with Smith Group JJR.

Chairman Nestorowicz thanked him.

Pat Doher stated the second parking deck they call this the vehicle engineering center parking structure, it's in the eastern half of General Motors Warren Tech Center campus, still in the M-3 zoning category. This parking structure will be serving an expanded office and research complex in this vicinity, he will also be serving some of the other operations as they continue to grow. It is going to be constructed and went to the Planning Board and was approved conditionally based on the Board's assessment or analysis of the height. It will be constructed in an area that is currently in an event center, it is part of the pond system, and it isn't part of the historic pond system. The Board can see that open space is exactly where the parking deck is going to be constructed. They're going to be filling in the bonds and they're working with the Michigan Department of Environmental Quality to do that but this parking deck is a little bit more significant from an architectural perspective because they want to make sure that because it's being seen from the very visible side on Van Dyke Avenue and it's also going to be part of the vehicle engineering complex they want to make sure that architecturally they're still within the realm of the height. This parking deck is going to be about 2,436 parking spaces, it's six levels and because of the architectural character of the vehicle engineering center, the existing building that it will be adjacent to, this parking deck will be in about sixty-feet in height. Again, the M-3 zoning allows forty foot height, they're asking for a variance to allow them that additional twenty-eight feet in order for them to meet their lines of architecture and still meet the requirements. The hardship is very limited space. Unfortunately, they're taking away some of the green space but because

of the expansion that is occurring in this area it is important for them to be able to increase the parking within the vicinity and try to minimize the amount of other surface parking that happens. So the hardship is that they're looking to allow vertical construction of the parking to allow them to be more convenient and sustainable from that perspective; thus, allowing the additional heights.

Chairman Nestorowicz stated this is a public hearing. He wondered if there are any other additional comments from the audience.

No response.

Chairman Nestorowicz turned this matter over to the Board.

Board Member Fisher thanked them for making all the investments they have made in Warren, they have been a great company for the city and great company for the state as a whole. He did want to take a minute to thank them for all that they're doing and for how wonderful they always keep the grounds there. He wondered if anyone else had any comments because he would like to make a motion.

Secretary S. Brasza said just a quick comment. She hates to see the water go and she's wondering where all the ducks are going to go. That's her only comment.

Jason Harris said they are aware of that. They have a group that is very focused on sustainability and wild life habitats on campus. They spend an enormous amount of time studying the wild life that is in there and during the draining of the lake they have a strategy to round up the various species, turtles and fish, to transplant them elsewhere on campus. It's being addressed.

Board Member Sohpiea asked how far that structure is setback from Van Dyke Avenue.

Pat Doher said it's about four hundred and twenty-two feet off of Van Dyke. Just to be clear, Jason Harris and General Motors has spent an tremendous amount of time studying the wild life, they're not filling a certain portion of the lake. He apologized for not making that clear. This parking structure is actually being build on the northern part, what they call the canal parts. Again, they aren't part of the historical character that was provided into the historic campus, they were actually added in the 2000's.

Jason Harris said the southern pond was part of the original campus, it was followed up after on the east side of campus and that lake was there. The northern lake at Mound was built with some of the spoils from the construction of the tower. All they're essentially doing is leveling that site and maximizing the parking.

Secretary S. Brasza thanked them.

Kirk Hughes from Smith Group JJR appeared before the Board. He stated from an architectural point of view, this is going to be a very significant architectural project because even though they're disturbing some of the existing water feature, this parking deck will connect to the existing building next to it, which is 125 feet tall and forms a nice transition between the three buildings off Van Dyke Avenue, but there is an architecturally significant bridge that will connect it to the taller building through the water, so it's going to be an outstanding piece of architecture and actually enhance the water they're taking into consideration preserving.

Chairman Nestorowicz thanked them. He stated that Board Member Fisher had a motion.

Motion:

Board Member Fisher made a motion to approve the petitioner's request to construct a parking deck to 68' in height as per the plans. Reasons being: not a detriment to the area and it's a benefit to the area.

Secretary S. Brasza supported the motion.

Chairman Nestorowicz stated they have a motion by Board Member Fisher and support by Secretary S. Brasza to approve the petitioner's request for the reasons stated in the motion.

Roll Call:

A roll call vote was taken on the motion and the motion carried (8 – 0).

Board Member Fisher	Yes, for the reasons stated in the motion.
Secretary S. Brasza	Yes, for the reasons stated in the motion.
Board Member Furgal	Yes, for the reasons stated in the motion.
Board Member Pauta	Yes, for the reasons stated in the motion.
Board Member H. Brasza	Yes, for the reasons stated in the motion.
Board Member Anglin	Yes, for the reasons stated in the motion.
Board Member Sohpiea	Yes, for the reasons stated in the motion.
Chairman Nestorowicz	Yes, for the reasons stated in the motion.

The petitioner's request has been **APPROVED.**

Jason Harris wondered if he could make one other comment. He stated to Secretary S. Brasza that last year when they came forward regarding the other parking deck.

Secretary S. Brasza mentioned the color of the tile.

Jason Harris said she mentioned the color of the brick. He wondered if she had the opportunity to check it out.

Secretary S. Brasza said she has and it's marvelous. She said they do such a fine job.

Jason Harris said he just wanted to let her know they did follow up on that.

Secretary S. Brasza thanked them.

Pat Doher thanked the Board.

Chairman Nestorowicz said to have a good evening.

Pat Doher said they're looking for some good homes for some geese.

Secretary S. Brasza said not at her house, please.

16. NEW BUSINESS

Chairman Nestorowicz stated not seeing any...

17. ADJOURNMENT

Motion:

Secretary S. Brasza made the motion to adjourn the meeting and supported by Board Member Fisher.

Voice Vote:

A voice vote was taken on the motion. The motion carried (8 – 0).

The meeting was adjourned at 9:35 p.m.

Sherry Brasza
Secretary of the Board